Patent
Attorney's Docket No. 1411(SURA)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	
William R. BRISIEL, et al.	Group Art Unit: 3625
Application No.: 09/690,055	Examiner: Robert E. Rhode, Jr.
For: ELECTRONIC STOCKROOM AND CATALOG	Filed: October 16, 2000

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By Anzuill Jackson

Appeal Brief

Hon. Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Honorable Commissioner for Patents
Washington, D.C. 20231

Sir:

I. Real Party in Interest

The real party in interest in the present application is Southeastern University Research Association.

II. Related Appeals and Interferences

There or no other patent applications known to appellant, the appellant's legal representative, or assignee which will directly affect or be affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

The 10 claims presently pending in the application are claims 1-10, all of which have been finally rejected and are part of this appeal. The 10 claims on appeal are set forth in the Appendix at the end of this brief.

IV. Status of Amendments

There has been no amendment filed subsequent to the Final Rejection.

V. Summary of the Invention

An intranet based comprehensive ordering system that allows authorized employees to search from multiple vendors'/manufactures' catalogs that are stored in a server on the company's intranet. The present Electronic Stockroom and Catalog (ESAC) allows vendors to download their catalogs to the company's server for storage, and for browsing and possible purchase by authorized employees. ESAC also allows vendors to update their catalogs that are already stored within the

system. ESAC further stores the on-site inventory of the company thereby allowing company employees to simultaneously search through on-site inventory and all of the vendors' catalogs for desired items. Thus, employees have access to a wide diversity of items, and purchasing of items that the company already has on-hand is prevented. The present system is an attempt at providing the company with a one-stop-shopping for every item that every employee will ever need in the course of their employment. If the desired item is available on-site, i.e., in one of the stockrooms of the company, then ESAC informs the employee and provides location information relating to the desired item. Items stored in the present system are browsed through via a friendly ESAC interface that allows the employee to search for items using keywords, part numbers and other search methods, such as a hierarchical search for example. If the desired item is not available on-site, then the item may be ordered from a one of the vendor/manufacture catalogs stored within ESAC. Items ordered from a vendor/manufacture are processed and tracked by ESAC. ESAC operates within the security of a company firewall and access is not available to unauthorized personnel or the general public who may try to access ESAC via the Internet.

VI. The Issues

The issue presented by this appeal is whether or not the Examiner was correct in the Final Rejection of: claims 1-2, 4-7 and 9-10 under 35 U.S.C. 103(a) as being unpatentable over Barnes, et al. ("Barnes"), U.S. Patent No. 5,970,475 in view of Rosenberg, et al. ("Rosenberg"), U.S. Patent No. 6,418,416; and, claims 3 and 8 under 35 U.S.C. 103(a) as being unpatentable over Barnes in view of Rosenberg and further in view of Johnson et al. ("Johnson"), U.S. Patent No. 6,023,683.

VII. Grouping of Claims

The claims 1-10 stand and fall together.

VIII. Argument

The primary reference used in the rejection is Barnes, U.S. Patent No. 5,970,475. Barnes teaches a system that allows buyers, at one location, to access a supplier's catalog, at a second location, via the Internet. See Abstract. The system of Barnes requires multiple servers with at least one server at the buyer's location and at least one server at the supplier's location. See Abstract and col. 3, lines 48-58. In Barnes, a buyer must first log on to the purchasing organization's intranet to access the customer server. The buyer then uses the customer server to access the Internet and log on to the supplier's server using an Internet browser. See col. 3, lines 20-26 and col. 6, lines 45-53. The supplier's system includes a catalog containing information regarding all of the supplier's goods made available to the purchasing organization, including pricing, discounts, availability and delivery information. See col. 4, lines 12-16. A buyer may download only limited information relating to one or more items that the buyer is interested in purchasing from the supplier's catalog. See col. 4, lines 18-26. The supplier is not able to download his entire catalog to the purchasing organization's server.

There exist a number of differences between Barnes and the claimed invention. The present invention describes a system that requires only one server that is located at the buyer's location. The single server is used to store information relating to inventory that is already on-hand at the buyer's location as well as catalogs of items that can be purchased from vendors. The present system allows a vendor to download their entire catalog directly to the buyer's server. These and other differences between Barnes and the present invention will be made more clear with an element by element analysis of independent claim 6 of the present invention vis-à-vis Barnes.

Appellant's Claim 6	Agreement or Difference Between Claim 6 and Barnes
(A) A system of storing, searching and purchasing a wide variety of items	No. Barnes requires use of the Internet to access and search for items.

from an intranet based electronic stockroom and catalog	
(B) an electronic stockroom and catalog that is executed on a server that operates on a secure company intranet	No. No inventory or catalog information stored locally.
(C) storage of on-site inventory information and multiple vendor catalog information, wherein vendors are allowed to download their catalogs information to the server, and vendors are allowed to update their catalog information	No. Barnes requires buyers to use the Internet to access vendor catalogs that are stored in a server at the vendor's location. No ability for the vendors to download their catalogs to the customer's server.
(D) search capabilities that allow simultaneous searching of the on-site inventory and catalog information	No.
(E) integration with other company electronic files to enable accounting, implement authorization limits and track purchases.	No. At least one other server is required to implement accounting, authorization limits and track purchases.

From this analysis, it is clear that Barnes fails to teach: 1) A system of storing, searching and purchasing a wide variety of items from an intranet based electronic stockroom and catalog, as described on page 5, lines 14-17 and page 6, lines 1-5 of the present application; 2) an electronic stockroom and catalog (ESAC) program that is executed on a server that operates on a secure company intranet, as described on page 5, lines 25-27 of the present application; 3) on-site inventory information and multiple vendor catalog information that is stored in ESAC wherein, the vendors are allowed to download their catalog information to ESAC, both for initial loading of their catalog and for updating of their catalog information, as described on page 7, lines 13-15 of the present application; 4) search capabilities that allow for simultaneous searching of the multiple vendor catalogs and items that are available

on-site, as described on page 6, lines 2-10 of the present application; and, 5) functions that provide integration of ESAC files with other company electronic files so that budgeting, accounting and authorization limitations are implemented with each purchase and tracking of purchases is possible, as described on page 5, lines 17-20 of the present application.

On pages 2 and 3 of the last Office Action, it is asserted that Barnes teaches allowing multiple vendors to download their catalog information to the buyer's server for initial loading of their catalogs or updating of their catalogs. Figure 2-4 and 14 are cited to support this assertion. What Figure 2 actually illustrates is the physical separation of the customer server 34, which is accessed by a customer, and the catalog server 42, which stores the catalog information. What Figure 3 actually illustrates are the major components located at the buyer's location and the major components located at the seller's location. See col. 4, lines 41-44. What Figure 4 actually illustrates are the communication links between the major components of the system. See col. 4, lines 45-46. What Figure 14 actually illustrates are the steps for adding an authorized supplier to the system of Barnes. After a supplier is administratively added to the system, users may access the remotely located supplier's catalog and order items. See col. 23, lines 4-14.

Immediately after the above assertion, on page 3 of the last Office Action, it is admitted that Barnes does not teach suppliers downloading their catalogs to a buyer's server. The Examiner then asserts that King (U.S. Patent No. 5,319,542) teaches suppliers downloading their catalogs to a buyer's server, and that King is incorporated by reference in Barnes. However, no where in Barnes is King incorporated by reference. Rather, King is simply listed with three other prior patents in the background section (col. 2) of Barnes to show the short-comings of the prior art. Thus Barnes does not teach vendors downloading their catalog information to a buyer's server.

On page 3 of the last Office Action, it is asserted that Barnes teaches simultaneous searching of multiple vendor catalogs and items that are available on-site. However, on page 4 of the action, it is admitted that Barnes does not teach

storing on-site inventory information. As applicant has not found any teaching in Barnes to support storing and searching of on-site inventory, it is believed that the assertion on page 3 of the Action was made in error.

On page 3 of the last Office Action, it is asserted that column 23, lines 53-59 of Barnes teaches permitting the vendors to download their catalog information via the Internet to the ESAC (buyer's server). What col. 23, lines 53-59 actually teaches is transferring item information from the supplier's legacy catalog 44' to the SQL supplier catalog server 98. Both the legacy catalog 44' and the catalog server 98 are located at the supplier's location, thus no information is downloaded and stored at the customer's location. See Figures 3 and 6B, and col. 23, lines 53-59.

On pages 7 and 8 of the last Office Action, the Examiner re-assert several times that Barnes teaches vendors downloading their catalogs to the buyer's server (ESAC). As discussed above, the Examiner is relying on an incorporation by reference of King within Barnes to teach this feature. Assuming arguendo that Kings does teach this feature, there is still no incorporation by reference of King in Barnes. Thus, it cannot be said that Barnes teaches this feature.

The second reference used in the rejection is Rosenberg, U.S. Patent No. 6,418,416. Rosenberg teaches a distributed system for generating orders of stocked items when the items need to be re-ordered. See col. 1, lines 15-18. Multiple cabinets are distributed throughout the operating area and linked via a network. See col. 4, lines 28-36. Each cabinet comprises multiple drawers for holding and distributing the articles for sale, in a controlled manner. See col. 3, lines 56-61. Each cabinet drawer includes a pressure sensitive switch that indicates to a controller when the article within has been removed or restocked. See col. 4, lines 10-13. If a customer desires an article that is not in the inventory of the cabinets, the customer is directed to the e-commerce site of the vendor. See col. 6, lines 45-53.

Rosenberg fails to disclose "an intranet based electronic stockroom and catalog (ESAC).... that is executed on a server that operates on a secure company intranet, wherein the ESAC is accessed.... at one or more company terminals, and"

the ESAC stores "on-site inventory information and multiple vendor catalog information." Rosenberg further does not disclose a system "wherein, the vendors are allowed to download their catalog information to ESAC, both for initial loading of their catalog and for updating of their catalog information." Rosenberg also does not disclose simultaneously "searching of the multiple vendor catalogs and items that are available on-site" and "integration of ESAC files with other company electronic files so that budgeting, accounting and authorization limitations are implemented with each purchase and tracking of purchases is possible", as is recited in claim 6.

The third reference used in the rejection is Johnson, U.S. Patent No. 6,023,683. Johnson teaches a system that combines a catalog hosting site and an automated requisitioning system. See col. 2, lines 47-56. In the Johnson system, customers order items from a catalog and the system creates an "order list" that is sent to a requisition/purchasing system. See col. 2, line 64 to col. 3, line 2. Information regarding an ordered item is communicated back and forth between the requisition/purchasing system 40 and the catalog database 36, via interface 60. See col. 5, lines 28-38, and Figure 2.

Johnson fails to disclose "an intranet based electronic stockroom and catalog (ESAC).... that is executed on a server that operates on a secure company intranet, wherein the ESAC is accessed.... at one or more company terminals, and" the ESAC stores "on-site inventory information and multiple vendor catalog information." Johnson further does not disclose a system "wherein, the vendors are allowed to download their catalog information to ESAC, both for initial loading of their catalog and for updating of their catalog information." Johnson also does not disclose simultaneously "searching of the multiple vendor catalogs and items that are available on-site" and "integration of ESAC files with other company electronic files so that budgeting, accounting and authorization limitations are implemented with each purchase and tracking of purchases is possible", as recited in claim 6.

Claim 7 that has been bundled with claim 6 above, differs from claim 6 in that

the vendor's catalog information that is downloaded to the electronic stockroom and catalog includes text and pictures.

Claim 8 that has been bundled with claim 6 above, differs from claim 6 in that the search capabilities include searching by keyword, part number, manufacturer or other descriptor.

Claim 9 that has been bundled with claim 6 above, differs from claim 6 by specifying that budgeting, accounting and authorization information is associated with each employee and this information is automatically updated with each purchase.

Claim 10 that has been bundled with claim 6 above, differs from claim 6 by including the ability to notify the buyer when an ordered item has been received.

Claims 1-5 that have been bundled with claim 6 above, are a group of method claims that mirror the apparatus claims 6-10, respectively.

A claim is unpatentable for obviousness only if the differences between the subject matter of the claims and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. To make this determination, one must step back in time and into the shoes worn by the person having ordinary skill in the art, when the invention was unknown and just before it was made. In light of all the evidence one must then determine whether the claimed invention as a whole would have been obvious at that time to that person. 35 U.S.C. Section 103; Union Carbide Corp. v. American Can Co., 724 F.2d 1567, 1575 (Fed. Cir. 1984).

The general test for what would have been obvious involves a four-part

analysis. Thus to determine whether the subject matter of a claim would have been obvious, one should:

1) determine the scope and content of the prior art;
2) note the differences, if any, between the prior art and the subject matter of the claim taken as a whole;
3) determine the level or ordinary skill in the art; and
4) consider any additional objective evidence that may indicate obviousness or unobviousness.

Graham v. John Deere Co., 383 U.S. 1, 17-18 (1966); Bausch & Lomb, Inc. v. Barnes-Hind/Hyrocurve, Inc., 796 F.2d 443, 447 (Fed. Cir. 1986), cert. denied, 108 S.Ct. 85 (1987).

In evaluating prior art to show that a claim would have been obvious, one must consider the prior art in its entirety. The differences between the prior art and the subject matter of the claims taken as a whole refers to those elements of the claims that cannot be found in the prior art or in what the prior art implicitly would have taught to a person of ordinary skill in the relevant art. The prior art should not be viewed in hindsight in such a manner as to select from the random facts of that art only those facts that may be modified and then utilized to reconstruct the invention. Lear Siegler, Inc. v. Aeroquip Corp., 733 F.2d 881, 890 (Fed. Cir. 1984); W.L. Gore Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1550-1551 (Fed. Cir. 1983), cert. Denied, 469 U.S. 851 (1984).

Although the differences between the claimed invention and the prior art are to be identified, one must determine obviousness based on whether or not the claimed invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made. Thus, one must be careful not to focus on what may be seen as the "gist" of the claimed invention when deciding the issue of obviousness. Bausch & Lomb, Inc. v. Barnes-Hind/Hyrocurve, Inc., 796 F.2d 443, 447 (Fed. Cir. 1986), cert. denied, 108 S.Ct. 85 (1987); Jones v. Hardy, 727 F.2d.

1524, 1529 (Fed. Cir. 1984).

In determining whether a claimed invention would have been obvious, hindsight should not be used. That is, it should not be determined that the invention is obvious after it was made and in view of the current state of the art. One must not read into the prior art teachings of the claimed invention. Instead, one must determine whether the claimed invention would have been obvious to one of ordinary skill in the art just before the invention was made, considering the state of the prior art as it then existed. In re Fine, 837 F.2d 1071, 1073 (Fed. Cir. 1988); Bausch & Lomb, Inc. v. Barnes-Hind/Hyrocurve, Inc., 796 F.2d 443, 447 (Fed. Cir. 1986), cert. denied, 108 S.Ct. 85 (1987); W.L. Gore Assocs., Inc. v. Garlock, Inc., 721 F.2d 1540, 1550-1551 (Fed. Cir. 1983), cert. Denied, 469 U.S. 851 (1984).

The fact that a solution to a problem is simple or appears to be simple when viewed in retrospect does not mean that the solution would have been obvious when it was conceived. Hybritech, Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1380 (Fed. Cir. 1986), cert. denied, 480 U.S. 947 (1987); Lindemann Maschinefabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462 (Fed. Cir. 1984); Jones v. Hardy, 727 F.2d. 1524, 1529 (Fed. Cir. 1984).

If what the inventors did would have been obvious to try, this does not mean that a patent is invalid for obviousness. "Obvious to try" is not the standard for an obviousness analysis. The standard is whether the invention, considered as a whole, would have been obvious to one skilled in the art. N.V. Akzo v. E.I. DuPont de Nemours & Co., 810 F.2d 1148, 1151 (Fed. Cir. 1987); In re Dow Chemicals Co., 837 F.2d 469, 473 (Fed. Cir. 1988).

As to the first two parts of the four part analysis discussed above, it is believed that the scope and content of the prior art has been shown above and the differences between the prior art and the subject matter of the present claims taken

as a whole is clear.

As to the third part, it is believed that the level of ordinary skill in this art would constitute one who has experience with the design and use of automated inventory and requisitioning systems.

As to the last part of the four part analysis, objective evidence of non-obviousness has not been presented by the appellant since the product is new in the market place. Although in appellant's view an automated system that combines storing and searching of on-site inventory as well as multiple vendor catalogs is counter intuitive when presented against the large number of systems that only track on-site inventory and the large number of systems that only handle requisitioning items from on outside source.

IX. Conclusion

It is believed that all of the claims currently in the application in their present form are allowable over the prior art for the reasons set forth above. Accordingly, the Board of Patent Appeals and Interferences is respectfully requested to find the claims allowable over the prior art and to reverse the Examiner's final rejection.

Respectfully submitted,

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APPENDIX

The Appealed Claims

1. A method of storing, searching and purchasing a wide variety of items from an intranet based electronic stockroom and catalog (ESAC) comprising the steps of:

housing the ESAC in a server that operates on a secure company intranet wherein the ESAC can be accessed by authorized employees at one or more terminals;

storing on-site inventory information and vendor catalog information in the ESAC;

allowing multiple vendors to download their catalog information to the ESAC for initial loading of their catalogs or updating of their catalogs;

providing search capabilities for simultaneous searching, by authorized employees, of the multiple vendor catalogs and items that are available on-site; and

integrating ESAC functions with other company electronic files so that budgeting, accounting and authorization limitations are implemented in the purchasing process and tracking of purchases is possible.

2. The method of claim 1 wherein, the step of allowing comprises permitting the vendors to download their catalog information via the Internet to the ESAC and the catalog information includes text and image information.

3. The method of claim 1 wherein, the step of providing search capabilities comprises providing keyword, part number, manufacturer or other descriptor search mechanisms.

4. The method of claim 1 wherein, the step of integrating comprises associating budgeting, accounting and authorization information with each employee and/or group of employees and automatically updating this information upon purchases and/or issues that are made.

5. The method of claim 1 wherein, the step of integrating comprises associating

an order for an item with an employee placing the order and notifying the employee when the item is received.

6. A system of storing, searching and purchasing a wide variety of items from an intranet based electronic stockroom and catalog (ESAC) comprising:

an ESAC program that is executed on a server that operates on a secure company intranet, wherein the ESAC is accessed by authorized employees at one or more company terminals;

on-site inventory information and multiple vendor catalog information that is stored in ESAC wherein, the vendors are allowed to download their catalog information to ESAC, both for initial loading of their catalog and for updating of their catalog information;

search capabilities that allow for simultaneous searching of the multiple vendor catalogs and items that are available on-site; and

ESAC functions that provide integration of ESAC files with other company electronic files so that budgeting, accounting and authorization limitations are implemented with each purchase and tracking of purchases is possible.

7. The system of claim 6 wherein, the vendors can download their catalog information via the Internet to ESAC and the catalog information includes text and image information.

8. The system of claim 6 wherein, the search capabilities provide keyword, part number, manufacturer or other descriptor search mechanisms.

9. The system of claim 6 wherein, budgeting, accounting and authorization information is associated with each employee and/or group of employees and the budgeting, accounting and authorization information is automatically updated with each purchase and/or issue.

10. The system of claim 6 wherein, the step of integrating comprises associating an order for an item with an employee placing the order and notifying the employee

when the item is received.

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PTO/SB/17 (10-03)
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FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☑ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 165

Complete if Known	
Application Number	09/690,055
Filing Date	10/16/2000
First Named Inventor	BRISIEL
Examiner Name	RHODE
Art Unit	3625
Attorney Docket No.	1411(SURA)

RECEIVED
JUN 04 2004
GROUP 3600

METHOD OF PAYMENT *(check all that apply)*

☐ Check ☑ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

Deposit Account Name

The Director is authorized to: *(check all that apply)*

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, **except for the filing fee** to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1) ($) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims		Fee from below	Fee Paid
Total Claims	-20** =		X	9	=
Independent Claims	- 3** =		X	43	=
Multiple Dependent					=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($) 0

***or number previously paid, if greater; For Reissues, see above*

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for *ex parte* reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	165
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) ($) 165

SUBMITTED BY

(Complete *(if applicable)*)

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Signature	Auzville Jackson Jr.			Date	6/1/04

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